

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

GEORGE PATTON NELSON, III, Case No. 6:18-cv-00187-MC

Petitioner,

ORDER

v.

“SB” of OREGON STATE HOSPITAL,
et al.,

Respondents.

MCSHANE, District Judge:

Petitioner, currently confined at the Oregon State Hospital, files this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. However, petitioner did not submit the \$5.00 filing fee. Petitioner must pay the \$5.00 filing fee or submit a completed application to proceed in forma pauperis before this case may proceed. *See* 28 U.S.C. §§ 1914(a), 1915(a).

Moreover, the petition does not state a viable claim for federal habeas relief. Petitioner apparently challenges his confinement at the Oregon State Hospital. However, this Court may review a habeas petition brought under § 2254 on “behalf of a person in custody pursuant to *the judgment of a State court* only on the ground that *he is in custody in violation of the Constitution or laws or treaties of the United States.*” 28 U.S.C. § 2254(a) (emphasis added). Here, petitioner

does not allege that he is in custody pursuant to a state court judgment, and he does not explain why his confinement violates his constitutional rights. Accordingly, petitioner also must amend his petition to allege a viable claim under 28 U.S.C. § 2254.

Finally, petitioner is advised that a state prisoner must exhaust all available state court remedies before a federal court may consider granting habeas corpus relief. *See* 28 U.S.C. § 2254(b)(1)(A); *see also Baldwin v. Reese*, 541 U.S. 27, 29 (2004). Petitioner's amended petition should indicate how he has exhausted his state court remedies.

CONCLUSION

Within 30 days from the date of this Order, petitioner shall submit the \$5.00 filing fee or a signed application to proceed in forma pauperis. Within 30 days from the date of this Order, petitioner shall also file an amended petition explaining why he is in custody at Oregon State Hospital and why his confinement violates his federal constitutional rights. Petitioner is advised that the failure to do so will result in dismissal of this proceeding without prejudice.

The Clerk is directed to send petitioner a form application to proceed in forma pauperis and a form petition under 28 U.S.C. § 2254.

IT IS SO ORDERED.

DATED this 8th day of February, 2018.

s/ Michael J. McShane
Michael McShane
United States District Judge